Item No. 3(d)(2)(i)
February 24, 2014

__ Action

__ Discussion

X Information

SUBJECT: **2014 STATE LEGISLATIVE SESSION UPDATE**

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POLICY ISSUE: The State Legislature addresses a range of policy issues of interest to the City.

NEEDED FROM COUNCIL: Council may wish to provide direction to staff regarding particular legislative proposals.

BACKGROUND

Staff has been providing Council written updates on the progress of bills and activities in Olympia during the 2014 session of the state legislature. February 18 was the cutoff for bills to be passed out of the house of origin. The summary below includes information sent to Council on February 18 prior to the 5:00 pm cutoff, with annotations in *red italic* that show the bill status after the cutoff. The next significant cutoff is February 28 (March 3 for fiscal committees) to consider the opposite chamber's bills in committee.

February 19 State Revenue Forecast.
The Economic and Revenue Forecast Council released the revenue forecast on February 19 which showed minimal changes to the state's economic outlook. The general fund forecast was increased by $30 million for the 2013-2015 biennium and by $82 million for the 2015-2017 biennium. Revenue collections were reported to be coming in very close to the November 2013 forecast. Cumulative general fund revenue collections through February 10 were only $2 million higher than forecasted due to some large payouts (lawsuits, etc.). The report noted that the state's economy continues to grow slowly, with employment rising in most sectors except aerospace and federal government. Potential risks to the economy are similar to those noted in November: the potential for slower Chinese economic growth and possible disruptions to the housing recovery; risks associated with federal fiscal policy have been reduced.

For the first time, the forecast included estimated revenue from marijuana (B&O, retail sales tax, excise tax and license fee): No revenue was budgeted for the 2013-2015 biennium; $51.2 million was estimated for the 2015-2017 biennium; and $138.5 million for the 2017-2019 biennium.

With the release of the forecast, it should be only a week or so before the supplemental budgets are released by the two chambers. House and Senate legislators who have the keys to the state's fiscal resources have not been willing to consider building back liquor revenue diverted to the general fund, or sharing new marijuana tax revenues to help cities meet public safety and enforcement obligations. They are concerned with state obligations and absent growth in revenue and are reluctant to commit funds to local governments.

Updates on Priority Issues:

Transportation. Senator Curtis King (R-Yakima), and other members of the Majority Coalition Caucus (MCC) held a news conference and released another transportation revenue package February 13. Many of the unresolved issues are identical or similar to the MCC's negotiating position throughout last fall. Some of the key highlights of the proposal are included below:

- Sales tax on state highway projects is transferred to the transportation budget beginning with the 2013-15 biennium. (The House had offered this transfer on new projects only beginning in 2018, or after *McCleary* obligations had been funded.)
- Stormwater projects are funded from the Model Toxics Control Account (MTCA) rather than from the transportation budget beginning in the 2015-17 biennium. (The House has opposed this switch, citing limited MTCA funds, and the resulting lag in toxic cleanup and stormwater project funding.)
- Labor reforms include changing WSDOT's apprenticeship requirements from 15% to 12% and limiting the program to projects of $4 million or more.
- Numerous environmental permitting changes.
- Creation of a seven-step permitting process for all transportation projects by WSDOT that require preparation of an EIS.
- There is more money for cities and counties in the Senate proposal. To do this, the Senate reduces state money for transit projects, bike/pedestrian projects, Safe Routes to Schools, and Complete Streets programs, and sends the money to local governments to decide how to spend it.
- Councilmanic authority to increase transportation benefit district (TBD) motor vehicle license fee from $20 to $40 per year.
- A voter-approved motor vehicle excise tax (MVET) of up to 1.5% for King County.

Within two hours of the MCC news conference, Senate and House Democrats expressed disappointment with the MCC proposal at their own news conference. It does not appear likely that the two parties will be able to agree on a package in the near future.

The House is considering passing a local option bill (or bills, **HB 1953, HB 1959**) before the February 18 cut-off though they are likely exempt from cut-offs. It is unclear (and unlikely) whether the Senate will consider these bills. The following local options would likely be included in the bill(s):

- Allow a Transportation Benefit District (TBD) to impose a local annual vehicle license fee of $40 (up from $20) by Councilmanic action.
- Allow King County to impose up to a 1.5% MVET with a public vote; 60% of which must be used for public transit systems, with 40% distributed to local governments for roads on a per capita basis.
- Allow Snohomish County up to a 0.3% sales tax with a public vote for Community Transit.

*As noted above, **HB 1953 and HB 1959,** did not move out of committee by the cutoff, but the bills are considered necessary to implement the budget (or, NTIB in Olympia parlance), so they could be voted at a later date. There is little likelihood that these bills would be well received in the Senate.*

Business Licensing and B&O Tax Portal. SB 5656 remains in Senate Rules as today's cut-off looms. **SB 5656,** a bill from the 2013 session, is the "either or" bill, mandating that cities choose either the city portal (File Local) or the state Business License System (BLS) for their business license processing. As noted in earlier updates, we believe these bills are premature because neither system is yet built (FileLocal), or rebuilt, in the case of the BLS. *This bill was not voted out of the Rules Committee and therefore is likely dead for this session.*

Marijuana. Bellevue and other local governments are asking the state to share new marijuana tax revenue with cities and counties as soon as it starts coming in—that's when recreational marijuana growers, processors, and retail outlets will be calling their local public safety and public health resources to keep them legal, safe, and secure. Many legislators are still reluctant to provide a share of the revenue to cities because they say that not enough is known about how much revenue will be generated and what the impacts will be.

Colorado's recreational marijuana stores opened in January and cities there are receiving a share of the tax revenue. NBC news recently reported that in the first 30 days of business, 18 Colorado retail marijuana businesses paid anywhere from $1.24 million to $3 million in taxes. According to the NBC report, Colorado stores are on track to add $100 million in marijuana tax revenue in the first year of recreational sales.

In Olympia, **HB 2144,** which gives cities and counties about 10% of recreational marijuana revenues collected, did not move from the House Appropriations Committee by the February 11 cutoff, but we are hearing the bill is NTIB, and therefore not subject to cutoffs. AWC and the Washington State Association of Counties (WSAC) have asked that the state split the marijuana revenue 50-50 with local governments. Further, WSAC is asking for 50% of the local governments' share—which is unacceptable to cities.

HB 2144 also includes language that preempts cities and counties from banning (and zoning, regulating) recreational marijuana businesses. However, House members are saying the preemption language is aimed at cities and counties (unlike Bellevue) that have chosen, thus far, to ban recreational marijuana outlets or producers in their jurisdictions. *This bill was not voted out of committee by the cutoff but is considered NTIB and could be voted out at a later date.*

HB 2149 reconciles the medical marijuana system with the recreational marijuana system and largely follows the December recommendations of the Liquor Control Board. It is on the House floor calendar and therefore subject to a vote. *This bill passed the House on February 17 by a wide margin and now moves to the Senate for consideration.*

SB 5887 is the Senate version that would reconcile the two marijuana systems. This bill distributes 30% of recreational marijuana revenues to cities and counties. **5887** is in Senate Ways and Means. There is no preemption section in the bill. The Ways and Means Chair has promised a hearing on the bill after cut-off. *This bill was not voted subject to the cutoff and was heard in Senate Ways and Means on February 19.*

On a Marijuana-Related Topic: Federal Departments Provide Guidance on Banking Laws for Marijuana Businesses. Last week, the federal Department of Justice (DOJ) and Treasury Department announced new guidelines for banks regarding banking for marijuana businesses. Federal prohibitions have generally made it difficult, if not impossible, for marijuana businesses to qualify for banking services. As a result, many have operated on a cash basis, including paying taxes in cash. The cash-based business model has been a concern because it could be a magnet for crime and make it hard to track and audit these businesses. The guidelines essentially amount to clarifying bank reporting requirements under the Bank Secrecy Act (the federal anti-money-laundering statute), and tell banks that they can file a certain kind of regulatory report if they believe marijuana businesses with accounts are following previously issued guidelines for Colorado and Washington. The guidance is not a change in federal law, so it may not satisfy all of the federal concerns expressed by bank representatives, but it will give banks some additional options.

State-Shared Revenues. HB 2314 and **SB 6361** gradually increase the percentage of liquor profits shared with local governments back to its historic 50% state/50% local government split by 2021. As you may recall, liquor profits to cities have been frozen at a reduced level, and liquor taxes to cities were cut by $10 million.

Some city officials met with Senate Ways and Means Chair Andy Hill (R-Redmond) during the week and noted that he reiterated his opposition to acting on this issue this year which is consistent with the House position. *Neither version of this bill moved out of committee by the cutoff nor both are unlikely to resurface.*

Public Works Assistance Account (PWAA, formerly the Public Works Trust Fund). The two PWAA bills, **HB 2244** and **SB 6546**, reduce the PWAA diversion to the state general fund from six years to two years, beginning July 1, 2015. The 2013-15 state operating budget diverted six years of the PWAA to the state general fund. **HB 2244** is on the House calendar and is expected to be voted out of the House. However, since the Senate was the architect of the diversion, we have been told to expect a "rough" hearing in the Senate. *The House bill passed and will be considered by the Senate. The Senate bill did not get voted out of committee.*

Public Records. HB 2121 requires every elected official, every member of a governing body, and public records officers to complete public records training within 90 days of assuming office. This is Attorney General-request legislation; training must be consistent with the AG's model rules, may be completed remotely, and must be repeated every four years. The bill passed the House on a 64-34 vote. *As noted, the bill passed the House and will be considered by the Senate.*

HB 1037 resides in House Rules. This bill allows cities to charge for requests if the request is made for sale or resale of all or part of the record requested. Several newspapers continue to oppose the bill. Additionally, cities are seeking funding in the supplemental operating budget for a Ruckelshaus Center mediation effort this year to continue working through these issues. *This bill died in committee.*

Mandatory Deferral of Impact Fees. SB 2677 primed by Rep. Springer, is similar to the bill vetoed by the Governor last year: it mandates that local government imposing impact fees (cities, counties, school districts) set up a deferral program for the payment of impact fees for up to 30 homes built by a developer in a jurisdiction. School districts rely heavily on impact fees and are still opposed to this bill as is AWC. The bill is on the House floor and is expected to pass. *The bill was not voted out of the House, but could be revived later in the session.*

<u>Other Bills of Interest</u>

EMS Levy Changes. HB 2428 was sponsored by several fire districts. As introduced, the bill provided a needed clarification that a six- or 10-year EMS levy may be reauthorized at a lower rate with a simple majority vote (the 50%+1 provision). An initial EMS levy must be approved by 60% of registered voters. In 2012, the law was amended to allow a six- or 10-year EMS levy to be reauthorized by a simple majority, instead of the 60% approval required by an initial EMS levy, as long as the levy is an "uninterrupted continuation" of the existing one. There has been some confusion as to whether the 2012 changes allowed the simple majority approval to continue an EMS levy at a different rate. **HB 2428** clarifies that reauthorization at a lower rate may be approved by a simple majority (50%+1). This change is widely supported by cities, including Bellevue, and fire districts.

However, as introduced, the bill changed the approval process for a countywide EMS levy from requiring a county to get approval from the legislative authority of each <u>city</u> (currently nine cities) with a population greater than 50,000 in order to place an EMS levy on the ballot, to requiring the county to get approval of the majority of <u>taxing districts</u> with a population greater than 50,000 that receive EMS levy funds. Cities over 50,000 served by a fire district would no longer be allowed to vote to authorize placing an EMS levy on the ballot (Shoreline, Kent, Federal Way and Auburn). Adding the four new taxing districts, fire districts (not cities), could potentially shift control of the levy approval process from cities to fire districts because four fire districts could band together with one city and control the process for approving placing an EMS levy on the ballot. Any one city could be the tipping point and the other cities would have no voice.

This proposal was not discussed among the EMS cities/jurisdictions in King County prior to the introduction of this bill in the legislature. Bellevue and other cities in King County are opposed to this change because of the potential disenfranchisement of some cities. At a minimum, this proposed change should be vetted among the EMS agencies in King County before seeking a legislative remedy.

In committee, Rep. Larry Springer (D-Kirkland) was successful in returning the original language to the statute – the 50,000 population standard. The bill, as amended, is on the House floor calendar. *This bill did not receive a floor vote and is considered dead.*

Moving Transportation Sales Tax Revenue to the State General Fund. SB 6102 is the negotiating position of the Senate in the transportation package negotiations. The sales tax on transportation projects that currently goes to the state general fund should be returned to the transportation budget. The bill moves the sales tax revenue to the state general fund by 2017. The bill is on the Senate floor calendar. *This bill did not move out of the Senate; however it could be brought back as it is a revenue bill.*

Public Works Assistance Account (PWAA) Interest Rates. HB 1484 is a bill from 2013 that set interest rates for PWAA loans to local governments at market rates. Historically, PWAA loan rates have been below market rates, which is one of the major benefits of these loans. We expect this bill will be amended to allow the PWAA Board to set rates, taking into account market rates. *The bill passed the House and was amended to allow the PWAA Board to set rates.*

R&D Tax Credits. SB 6450 extends the high technology state B&O tax credit and sales tax deferral for high technology R&D construction from 2015 to 2040. The bill is in Senate Rules and is supported by the Washington Technology Coalition and the Washington Technology Cities Coalition (composed of cities, including Bellevue, from all parts of the state that believe it is vital to nurture and grow Washington's flagship sector). The Coalition sent a letter to Senate leadership expressing support for the extension based on the return on investment to the state from this sector, including:

- Since the establishment of the R&D incentives in 1994, the state has invested about $24 million a year in B&O tax credits and received $2.1 billion in state and local tax benefits.
- With the sales tax deferral, the State has invested $693 million for $8.2 billion of returned investment.
- The tech sector supports more than 10,000 companies in 24 of our state's 39 counties and employs one of every four workers in Washington.
- The tech sector generates over $3 billion in taxes every year.
- More than 15,000 R&D projects launched in the State of Washington, as well as a four-fold growth in the number of patents generated.

This bill passed the Senate in a 49-0 vote and was scheduled for a hearing in the House Environment Committee on February 21.

Use of Lodging Taxes to Bond for Affordable/Workforce Housing. As you know, increasing the supply of workforce housing is one of Bellevue's top priority issues for 2014. Housing located near job centers is often some of the most expensive, effectively excluding lower-paid workers. Currently, King County's **HB 2650/SB 5741** would clarify that hotel/motel tax revenues from the state-shared amount may be used to pay off bonds issued for affordable/workforce housing in 2014, ahead of the 2021 date in the 2011 legislation. The 2011 legislation (SB 5834), allowed King County lodging taxes to be repurposed beginning in 2021 to fund the arts (37.5%), tourism activities (25%), and housing near transit for low and moderate wage workers (37.5%). If the bills under consideration in both chambers are approved, the King County Council will be able to issue general obligation bonds against a reasonable portion of the future revenue to fund affordable housing now. Pulling forward a portion of the housing revenue means projects can begin construction years earlier while land near transit stations is still available and construction costs are lower. The current law does not exclude the ability to bond, but it does not provide sufficient clarity or legal certainty. There is no additional cost to the state from this change. Local governments, including Bellevue, and housing advocates are supporting these bills. *Both of these bills died in their respective chamber's Rules Committee.*

Personnel and Pension Bills. There is no shortage of bills dealing with human resource, workers compensation, and pensions this session. However, the division in the legislature continues to impact personnel legislation. The Senate Majority Coalition Caucus tends to focus on businesses and employers while the House is controlled by the Democrats with a tendency to focus on labor-related issues. The result is the two chambers passing legislation that will not be well received by the opposite house. We are monitoring a wide variety of bills, but the politics of the legislature will likely mean that few, if any, bills on these issues is approved this year.